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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XB032

Notice of Availability of a Draft Environmental Assessment for the Issuance of Incidental Harassment Authorizations in the U.S. Beaufort and Chukchi Seas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Draft Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of the “Draft Environmental Assessment (DEA) for the Issuance of Incidental Harassment Authorizations for the Take of Marine Mammals by Harassment Incidental to Conducting Exploratory Drilling Programs in the U.S. Beaufort and Chukchi Seas.” Publication of this notice begins the official public comment period for this DEA. The purpose of the DEA is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of issuing Incidental Harassment Authorizations (IHAs) to Shell for the take of marine mammals incidental to offshore oil and gas exploratory drilling programs in the U.S. Beaufort and Chukchi Seas pursuant to the Marine Mammal Protection Act (MMPA).

DATES: Comments and information must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the DEA should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is ITP.Nachman@noaa.gov. NMFS is not responsible for e mail comments sent to addresses other than the one provided here. Comments sent via e mail, including all attachments, must not exceed a 25-megabyte file size.

A copy of the DEA may be obtained by writing to the address specified above, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION: Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of proposed authorization is provided to the public for review. The term “take” under the MMPA means “to harass, hunt, capture, kill or collect, or attempt to harass, hunt, capture, kill or collect.” Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment];

or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

In accordance with NEPA, the Council on Environmental Quality’s implementing regulations, and NOAA Administrative Order 216-6, NMFS has prepared this DEA to evaluate the potential direct, indirect, and cumulative effects on the human environment that may result from the issuance of IHAs pursuant to section 101(a)(5)(D) of the MMPA to Shell Offshore Inc. and Shell Gulf of Mexico Inc. (collectively “Shell”) for the take of marine mammals incidental to conducting offshore exploratory drilling programs in the U.S. Beaufort and Chukchi Seas. NMFS published Notices of Proposed IHAs on Shell’s Beaufort and Chukchi Sea exploratory drilling programs for public comment on November 7, 2011, and November 9, 2011, respectively (76 FR 68974 and 76 FR 69958), which contained analyses of the proposed specified activities on marine mammals, their habitats, and the availability of marine mammals for subsistence uses.

NMFS requests comment on our analysis contained in the DEA regarding the potential

effects of the proposed action of issuing IHAs for the specified activities on the human environment and any other aspects of the DEA. Please include, with your comments, any supporting data or literature citations to help inform our final decision on Shell's request for MMPA authorizations.

Dated: February 21, 2012

James H. Lecky,
Director,
Office of Protected Resources,
National Marine Fisheries Service.

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